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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FRANCISCO LORENZO GARCIA  
JUAREZ; FRES BINDA LOPEZ,

Petitioners,

v.

MICHAEL B. MUKASEY, Attorney  
General,

Respondent.

No. 07-74486

Agency Nos. A95-442-839  
A95-442-840

MEMORANDUM<sup>\*</sup>

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted April 15, 2008<sup>\*\*</sup>

Before: B. FLETCHER, FISHER and PAEZ, Circuit Judges.

This is a petition for review of the Board of Immigration Appeals' ("BIA")  
order denying petitioners Francisco Lorenzo Garcia Juarez and Fres Binda Lopez's  
motion to reopen.

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<sup>\*</sup> This disposition is not appropriate for publication and is not precedent  
except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without  
oral argument. *See* Fed. R. App. P. 34(a)(2).

The BIA's denial of a motion to reopen is reviewed for abuse of discretion. *See Cano-Merida v. INS*, 311 F.3d 960, 964 (9th Cir. 2002). The regulations state that a motion to reopen removal proceedings must be filed not later than ninety days after the date on which the final order of removal was entered. *See* 8 C.F.R. § 1003.2(c)(2). A motion to reopen must also present new evidence that was not available and could not have been discovered or presented at the previous hearing. *See* 8 C.F.R. § 1003.2(c)(1).

A review of the administrative record demonstrates that there is substantial evidence to support the BIA's decision that petitioners' motion to reopen was untimely. Petitioners' final order of removal was entered on April 5, 2007. Petitioners' motion to reopen was filed on August 17, 2007, more than ninety days after entry of the final order of removal.

A review of the administrative record also demonstrates that there is substantial evidence to support the BIA's decision to deny petitioners' motion as materially deficient. The motion did not present any new evidence in support of petitioners' applications for cancellation of removal. Accordingly, respondent's unopposed motion for summary disposition is granted because the questions raised

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by this petition for review are so insubstantial as not to require further argument.

*See United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982) (per curiam).

All other pending motions are denied as moot. The temporary stay of removal confirmed by Ninth Circuit General Order 6.4(c) shall continue in effect until issuance of the mandate.

**PETITION FOR REVIEW DENIED.**